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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.394 of 2011
Cuttack this the 23rd day of November, 2012

CORAM
THE HON'BLE SHRI A.K.PATNAIK, MEMBER (JUDL)

Narayan Prasad Das,
Aged about 62 years,
S/o.Late Nityananda Das,
Village & PO-Dehuri,
Via-Anandapur,
Dist.Bhadrak (Orissa)
Retired Staff Car Driver, Grade-I,
Doordarshan Kendra,
Bhubaneswar,
Dist. Khurda

...Applicant

By the Advocates: M/s.R.B.Mohapatra,
S.Debata,
D.K.Mohanty

-Versus-

Union of India represented through

1. The Secretary to Government of India,
Ministry of Information & Broadcasting,
New Delhi-110 001.
2. Secretary to Government of India,
Ministry of Finance,
Department of Expenditure,
Central Pension Accounting Office,
Government of India,
Trikoot-II,
Bhikaji Cama Place,
New Delhi-110 066.
3. Director General,
Doordarshan (Broadcasting Corporation of India)
Prasar Bharati,

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Mandi House,
Copernicus Marg,
New Delhi-110 001.

4. Sr. Accounts Officer,
Pay & Accounts Office,
All India Radio,
Akashvani Bhawan,
Eden Garden,
Kolkata-700 001 (West Bengal)
5. Director of Doordarshan Kendra,
Bhubaneswar (Broadcasting Corporation of India)
Prasar Bharati,
Po. Bhubaneswar-751 005,
Dist. Khurda (Orissa)

.... Respondents

By the Advocates: Mr.P.R.J.Dash

O R D E R (ORAL)

A.K.PATNAIK, MEMBER (JUDL):

The Applicant (Narayan Prasad Das) is a retired Staff Car Driver Gr.I in the Doordarshan Kendra Bhubaneswar. His grievance in this Original Application is that Government of India, Ministry of Health and Family WELFARE (Department of Health and Family Welfare) issued an Office Memorandum dated 24.09.2009 enhancing the amount of Fixed Medical Allowance to Rs.500/- per month in favour of the pensioners living in Non CGHS Area which has not been extended to him. He has earlier approached this Tribunal in OA No. 858/2010. As the representation made by the Applicant to the above extent was pending at that relevant point of time, the said OA No.858 of 2010 was disposed of by this Tribunal on 29th December, 2010 with a direction to

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the Respondents to dispose of the pending representation of the applicant within a period of sixty days from the date of receipt of the said order.

2. In pursuance of the order of this Tribunal dated 29th December, 2010, the Respondents communicated their decision on the pending representation of the Applicant vide letter dated 5th May, 2011, under Annexure-A/9 which reads as under:

“I am to refer to your letter dated 17th March, 2011 regarding fixed medical allowance @ Rs.500/- p.m. to Shri N.P.Das Retd. Staff Car Driver.

2. In compliance of the Hon’ble CAT, Cuttack Bench, Cuttack order dated 29th December, 2010, it is stated that the Ministry of Health and Family Welfare, Department of Health and Family Welfare vide its letter No. S-11030/10/2008-CGHS(P) dated 24.9.2009 has only recommended to the Department of Pension & Pension Welfare for the payment of Rs.500/- p.m. Earlier the Govt. had issued instructions vide its OM No.45/57/97-P&PW(C) dated 19.12.1997 for grant of Fixed Medical Allowance @ Rs.100p.m. The demand for enhancement of FMA was under consideration of the Government for some time past.

3. However, the Department of Pension who is the issuing authority of the various orders has issued the order on 26th May, 2010 recommending only Rs.300/- to the pensioners/family of pensioners residing in areas not covered under Central Government Health Scheme w.e.f. 01.09.2008.

4. In view of the above Shri N.P.Das is entitled to only Rs.300/- Fixed Medical Allowance from the date of his retirement.”

3. The Office Memorandum dated 24th September, 2009 (Annexure-A/9) based on which the Applicant seeks enhancement of FMA at Rs.500/- reads as under:

“The undersigned is directed to refer to the D.O. Letter No.4/25/2008-P&PW(D) (Pt) dated 2nd September, 2008, addressed Secretary (Health & Family Welfare) by Secretary (Pension & Pensioner’s Welfare) regarding enhancement of the amount of Fixed Medical Allowance (FMA) for pensioners

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Welfare has no objection to the FMA to be paid to pensioners being increased to Rs.500/- (Rupees five hundred only) per month, as has been done by the Government of Haryana vide its' sanction No.2/363/98-1 HBIII dated the 27th January, 2009. The Ministry of Health & Family Welfare also has no objection if the FMA is linked to the inflation on the basis of the formula followed by the Ministry of Finance for announcing DA/RIOPI to serving employees and pensioners retrospectively every six months.

This issues with the approval of Secretary (Health & Family Welfare)."

4. From the record, it is found that it was a letter sent by the Ministry of Health and Family Welfare, New Delhi on a reference made by the Department of Pension and Pensioners' Welfare, New Delhi vide DO letter No. 4/25/2008-P&PW (D)(pt) dated 2nd September, 2008 and on the basis of the letter under Annexure-A/9 it is for the Department of Pension and Pensioners' Welfare, New Delhi to take a decision for enhancement of the FMA. So it is clear that the Applicant cannot claim, on the basis of the internal communication at Annexure-A/9, as a matter of right to get the FMA at Rs.500/-, until a decision is taken by the appropriate Government which is nothing but a matter of policy. Law is well settled that the Tribunal has no competence to interfere in the policy decision of the Government.

5. No information is available with the Counsel appearing for both the sides about the decision taken by the Department of Pension and Pensioners' Welfare, New Delhi on Annexure-A/9. The counter filed by the Respondents is also silent on this aspect. The Department of

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Pension and Pensioners' Welfare, New Delhi is not a party to this Original Application.

6. In view of the above, after hearing Mr.R.B.Mohapatra, Learned Counsel appearing for the Applicant and Mr.P.R.J.Dash, Learned Additional Standing Counsel appearing for the Respondent-Department, this OA is disposed of with a direction to the Respondents to ascertain from the concerned Ministry as to whether any decision has been taken on Annexure-A/9 and extend the benefit if any to the Applicant within a period of sixty days. There shall be no order as to costs.

Abu
(A.K.Patnaik)
Member (Judicial)